

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF OKLAHOMA**

(1) DAVID KOBOSKY,

Plaintiff,

v.

(1) SOUTHEASTERN OKLAHOMA
STATE UNIVERSITY,

Defendant.

Case No. 14 – CV – 30 – SPS

Bryan County District Court
Case No. CJ-2013-216

NOTICE AND PETITION OF REMOVAL

Defendant Southeastern Oklahoma State University, (hereinafter “SEOSU” or “Defendant”) hereby gives notice of removal of the action currently pending in the District Court of Bryan County, State of Oklahoma, pursuant to 28 U.S.C. § 1441 *et seq.*, Fed. R. Civ. P. 81(c) and Local Rules 81.1 and 81.2 of the U.S. District Court for the Eastern District of Oklahoma. In support of Defendant’s Notice and Petition of Removal, Defendant shows the Court as follows:

1. The above captioned proceeding was filed in the District Court of Bryan County, State of Oklahoma, and is styled *David Kobosky v. Southeastern Oklahoma State University*, Case No. CJ-2013-216.
2. Defendant SEOSU was served on January 14, 2014. Any initial responsive pleading would be due in state court on February 3, 2014.
3. In the captioned proceeding, Plaintiff alleges a federal claim pursuant to Title VII of the Civil Rights Act as amended (42 U.S.C. 2000e *et seq.*) Plaintiff also asserts

state law claims for Intentional Infliction of Emotional Distress and blacklisting, pursuant to 40 O.S. § 172. (See Exhibit 1, Plaintiff's Petition).

4. The United States District Court for the Western District of Oklahoma has original subject matter jurisdiction of this case pursuant to 28 U.S.C. § 1331.
5. This removal is timely in that defendant, SEOSU, was served with the Petition on January 14, 2014, and this Notice of Removal is filed in this Court within thirty (30) days of such date.
6. By this removal, the Defendant, SEOSU, hereby reserves, and does not waive any right to assert, or the protection of, any available constitutional, statutory, common law, or other provision that does, might, or could limit the Court's jurisdiction of the allegations of Plaintiff's Complaint or any proposed amendment thereto, including allegations of entitlement to relief thereunder, including, but not limited to Eleventh Amendment immunity and sovereign immunity. (See: *Grothoff v. Nixon*, 2007 WL 2693835 (W.D. Mo.); *Dansby-Giles v. Jackson State University*, 2010 WL 780531, (S.D. Miss.); and *Neiberger v. Hawkins*, 70 F.Supp. 2d 1177 (D. Colo. 1999)).
7. In accord with 28 U.S.C. § 1446 and Local Rule 81.2, the following documents are attached: Exhibit 1, Plaintiff's Petition; Exhibit 2, state court docket sheet; Exhibit 3, Summons, served upon SEOSU on January 14, 2014.

WHEREFORE, Defendant, Southeastern Oklahoma State University, respectfully requests that this action be removed from the District Court of Bryan County, State of Oklahoma, to the United States District Court for the Eastern District of Oklahoma, and for such other and further relief as the Court deems proper under the circumstances.

Respectfully submitted,

Dixie L. Coffey

DIXIE L. COFFEY, OBA # 11876

Assistant Attorney General

Oklahoma Attorney General's Office

Litigation Section

313 N. E. 21st Street

Oklahoma City, Oklahoma 73105

Tele: (405) 521-2891 Fax: (405) 521-4518

Email: Dixie.Coffey@oag.ok.gov

Attorney for Defendant,

Southeastern Oklahoma State University.

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2014, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of Notice of Electronic Filing to the following ECF registrants, and mailed by U.S. Mail to:

Laurie J. Miller, OBA # 19681
MILLER LAW FIRM, P.C.
P.O. Box 720576
108 East Main Street
Norman, Oklahoma 73070
Telephone: 405-310-6133
Facsimile: 405-292-2205

s/Dixie L. Coffey

Dixie L. Coffey